

**IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN AT JODHPUR**

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ORDER

**Hans Raj
Vs.
Municipal Board, Nagaur & Ors.**

**S.B. CIVIL WRIT PETITION NO.4927/2004
UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA.**

DATE OF ORDER :: 05th September, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.S.K. Poonia, Advocate for the petitioner.
Mr.Rameshwar Dave, Dy. Govt. Advocate for respondents.

BY THE COURT

The petitioner Hans Raj (hereinafter referred to as the 'workman') has challenged the award dated 16th May, 2001 passed by the learned Labour Court, Jodhpur whereby it answered a reference on an industrial dispute made to it by the appropriate Government. The reference was made on the question whether removal of the workman from the services of

the Municipal Board, Nagaur by its Chairman and Executive Officer firstly on 05.11.1992 and thereafter on 31.05.1992 was legal and justified and if not what relief the workman was entitled to.

The petitioner was initially appointed in the services of the Municipal Board, Nagaur on 15.11.1990 on the post of Naka Guard on daily wage basis. Services of the petitioner were discontinued by the Board on 05.11.1992. He preferred a writ petition being S.B. Civil Writ Petition No.6465/1992 before this Court challenging his discontinuation from service. This Court while issuing notices to the respondents on 04.12.1992 passed an interim order thereby staying the order of his removal. The writ petition was ultimately dismissed on 19.04.1995 on the ground of availability of the alternative remedy to the petitioner under Section 10 of the Industrial Disputes Act, 1947 (for short 'Act of 1947'). The petitioner was relieved from service on 31.05.1995, but this time with a payment of Rs.4,160/- as compensation and notice pay as provided for by Section 25-F of the Act of 1947.

The learned labour court while rejecting contrary argument of the workman held that the management has been able to prove compliance with the provisions of Section 25-F & 25-G of

the Act of 1947. The learned labour court found that the workman failed to give the name of persons who were allegedly junior to him and were still retained in service and were made permanent. In the result, the learned labour court rejected the claim of the workman and accordingly passed the award.

I have heard Mr.S.K. Poonia, learned counsel for the petitioner and Mr.Rameshwar Dave, learned Dy. Government Advocate.

Learned counsel on analysis of evidence recorded a finding of fact that the respondents were complied with the provisions of Section 25-F of the Act of 1947. It also held that there was no violation of Section 25-G of the Act of 1947. In my view such findings recorded by the learned labour court do not suffer from perversity. I do not find any error on the face of record in the impugned award to warrant interference by this Court.

In addition to the arguments made above, the learned counsel for the petitioner also argued that even subsequent to the passing of the award, the Municipal Board, Nagaur has re-engaged certain workmen who were originally appointed with the petitioner and has now even made them regular in service. In my view, on the basis of such subsequent development,

impugned award cannot be invalid although this may furnish a fresh cause of action to the petitioner. Lastly however, the learned counsel for the petitioner argued that liberty may be granted to the petitioner to make a representation to the respondents. It would be open to the petitioner to make a representation to the respondents and the respondents shall take a view on such representation and communicate their decision to the petitioner. It is expected from the respondents to decide such representation expeditiously, if and when made.

With these observations, the writ petition is dismissed. There shall be no order as to costs.

[MOHAMMAD RAFIQ],J.

Asfuvini/-